

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD MEZA,

Petitioner,

v.

CHRISTIAN PFEIFFER,

Respondent.

No. 2:20-cv-02316-DAD-KJN (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PETITIONER'S MOTIONS FOR AN
EVIDENTIARY HEARING, GRANTING
DEFENDANT'S MOTION TO DISMISS,
AND DISMISSING ACTION

(Doc. No. 1, 9, 19, 24, 34)

Petitioner Ronald Meza is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 22, 2021, the assigned magistrate judge issued findings and recommendations, recommending that defendant's motion to dismiss the pending habeas petition (Doc. No. 9) be granted because the applicable limitations period expired prior to the filing of the petition and petitioner has failed to demonstrate that he was diligent in pursuing federal habeas relief throughout the limitations period such that equitable tolling should apply in this case. (Doc. No. 24.) The findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within thirty (30) days after service thereof. (*Id.* at 19–20.) After receiving several extensions of time to do so, petitioner filed timely

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1 objections.¹ (Doc. No. 35.) Respondent did not file a reply to petitioner's objections.

2 In his objections, petitioner now claims that he suffered a mental health crisis on
 3 December 6, 2014, was admitted to a crisis bed, and was not released until December 10, 2016.
 4 (*Id.* at 8.) According to petitioner, he "remains under CCCMS² care and schizophrenic
 5 remission," and claims that he gradually regained "cognizance [sic] on or about 7/00/19." (*Id.* at
 6 9.) At that time petitioner asserts that he sought again the legal briefs submitted on his behalf in
 7 connection with his state court appeal many years earlier from attorney William M. Balin, the
 8 former partner of petitioner's state appellate attorney who had since retired, and with assistance of
 9 inmate Stan Solvery filed a habeas petition on or about October 18, 2020, not November 5, 2020.³
 10 Petitioner has provided a copy of a mental health treatment plan dated April 11, 2017, which
 11 noted that his schizoaffective disorder was in remission. (*Id.* at 18.) He has also provided a copy
 12 of a declaration signed by his aunt, Carole Nobis, in which she states that she did not receive
 13 petitioner's legal materials in 2013, and "lost communication" with petitioner when he "went
 14 under a mental crisis condition." (*Id.* at 42.)

15 In addition, petitioner has provided a letter from Associate Warden Lopez at PVSP
 16 confirming that there is "no record of any trust account activity pertaining to any legal documents
 17 being mailed out while plaintiff was housed at PVSP, and following a search of R&R and the
 18 mailroom, no documentation concerning plaintiff's legal documents were discovered." (*Id.* at
 19 37.) Petitioner appears to argue that this evidence demonstrates that his property was not mailed

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 21 ¹ Petitioner also concurrently filed a motion for extension of time to file his objections. (Doc.
 22 No. 34.) However, petitioner's objections were filed by the deadline set in the order granting his
 23 earlier filed motion for an extension of time (Doc. No. 32). Therefore, petitioner's latest motion
 24 for extension of time is denied as moot.

25 ² The Mental Health Services Delivery System Program Guide for the California Department of
 26 Corrections and Rehabilitation provides four levels of mental health care services: Correctional
 Clinical Case Management System ("CCCMS"); Enhanced Outpatient ("EOP"); Mental Health
 Crisis Bed ("MHCB") and inpatient hospital care. *Coleman v. Brown*, No. 2:90-cv-00520-LKK-
 DAD (PC), 2013 WL 6491529, at *1 (E.D. Cal. Dec. 10, 2013).

27 ³ Petitioner did not indicate where, if at all, he filed a habeas petition on or about October 18,
 28 2020. The instant petition was filed on November 5, 2020, the date petitioner's proof of service
 attached to that petition was signed. (ECF No. 1 at 227.)

1 to his aunt as he had requested.

2 The Associate Warden's letter confirms that petitioner arrived at PVSP on May 29, 2012,
3 and was transferred to NKSP on November 18, 2013. (*Id.* at 37.) Petitioner now broadly claims
4 he was "without his records (certified documents)" from November 13, 2012 through August 5,
5 2020. (*Id.* at 11.) But he also claims that the writ authored by inmate Edwin Valencia on his
6 behalf was discovered among his personal property on November 7, 2013. (*Id.* at 4.) Thus, as
7 noted in the findings and recommendations, because petitioner was released from administrative
8 segregation on November 7, 2013, and was not transferred out of PVSP until November 18, 2013,
9 it is apparent that he had in his possession at least some of his legal materials in his possession
10 before his transfer from PVSP and could have filed his habeas petition during that time. (Doc.
11 No. 24 at 14.)

12 Moreover, petitioner has presented no mental health records confirming his admission to a
13 crisis bed, or his release therefrom, and his objections to the pending findings and
14 recommendations are not verified, nor are they accompanied by a declaration from petitioner.
15 But even assuming petitioner was housed in a crisis bed on December 6, 2014, he has failed to
16 demonstrate how such mental health condition, if then present, prohibited him from diligently
17 pursuing his habeas claims after he was transferred to NKSP on November 18, 2013 and before
18 being admitted to the crisis bed, or after he was released from the crisis bed on December 10,
19 2016. In addition, contrary to petitioner's claim that he didn't regain his mental health until July
20 of 2019, the medical record he has provided the court confirm that petitioner's schizoaffective
21 disorder was in remission as of April 11, 2017.⁴ (Doc. No. 35 at 18.) Yet, petitioner has wholly
22 failed to address the time frame from April 11, 2017 to July of 2019, when he apparently sought
23 yet another set of the legal briefs filed on his behalf on appeal in state court from attorney Balin.
24 (*Id.* at 9.) Thus, even if this court were to determine that equitable tolling of the statute of
25 limitations was appropriate for the period of time that petitioner alleges his legal property was
26 missing and unavailable to him, until he was released from a crisis bed on December 10, 2016,

27 ⁴ The court observes that the April 11, 2017 medical record noting that petitioner was then in
28 remission does even state the date petitioner was first diagnosed as being in remission.

1 petitioner still did not file the instant federal habeas action until November 5, 2020, almost four
2 years later, long after the statute of limitations for doing so had expired.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
4 *de novo* review of the case. Having carefully reviewed the entire file, including petitioner's
5 objections, the court concludes the pending findings and recommendations to be supported by the
6 record and proper analysis.

7 A petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal a
8 district court's denial of his petition, and an appeal is only allowed in certain circumstances.
9 *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C. § 2253. If a court denies a habeas
10 petition on the merits, the court may only issue a certificate of appealability "if jurists of reason
11 could disagree with the district court's resolution of [the petitioner's] constitutional claims or that
12 jurists could conclude the issues presented are adequate to deserve encouragement to proceed
13 further." *Miller-El*, 537 U.S. at 327; see also *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).
14 While the petitioner is not required to prove the merits of his case, he must demonstrate
15 "something more than the absence of frivolity or the existence of mere good faith on his . . . part."
16 *Miller-El*, 537 U.S. at 338.

17 In the present case, the court finds that reasonable jurists would not find the court's
18 determination that the petition should be denied debatable or wrong, or that the issues presented
19 are deserving of encouragement to proceed further. Petitioner has not made the required
20 substantial showing of the denial of a constitutional right. Therefore, the court will decline to
21 issue a certificate of appealability.

22 Accordingly,

- 23 1. The findings and recommendation issued on October 22, 2021 (Doc. No. 24) are
24 adopted in full;
- 25 2. Petitioner's motion for an extension of time (Doc. No. 34) is denied as having
26 been rendered moot by this order;
- 27 3. Petitioner's motions for an evidentiary hearing (Doc. Nos. 1, 19) are denied;

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4. Respondent's motion to dismiss the pending petition for habeas relief as time barred (Doc. No. 9) is granted;
5. This action is dismissed with prejudice;
6. The court declines to issue a certificate of appealability; and
7. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: September 16, 2022


UNITED STATES DISTRICT JUDGE